



State of Utah

Department of
Environmental Quality

Richard W. Sprott
Executive Director

DIVISION OF AIR QUALITY
Cheryl Heying
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

DAQ-052-07

MEMORANDUM

TO: Air Quality Board
Fred Nelson, Assistant Attorney General

FROM: Christian Stephens, Assistant Attorney General

DATE: June 27, 2007

SUBJECT: Appointment of New Executive Secretary

With the recent leadership changes within the Department of Environmental Quality and the Division of Air Quality, the Air Quality Board would benefit from a brief outline of how the new Division of Air Quality leadership appointment should occur, based on the statutory requirements. Richard Sprott is now the Executive Director, having been appointed by the Governor and confirmed by the Senate according to Utah Code Ann. § 19-1-104(2) “[t]he executive director shall be appointed by the governor with the consent of the Senate and shall serve at the pleasure of the governor”).

The Executive Director may appoint a new Division Director for UDAQ. *See* § 19-1-105(2) ([e]ach division is under the immediate direction and control of a division director appointed by the executive director”); § 19-1-202(2)(f) (“[t]he executive director may appoint division directors who may be removed at the will of the executive director . . .”). Although the statutes are not clear on the point, historically the division director and the executive secretary have been the same person. In the case of the appointment of the executive secretary, Air Quality Board approval of the Executive Director’s appointment is required: “[t]he executive secretary shall be appointed by the executive director, with the approval of the board, and shall serve under the administrative direction of the executive director.” U.C.A. § 19-2-107(1).

The Utah Code specifies that for any Board action, “[s]ix members constitute a quorum at any meeting, and the action of a majority of members present is the action of the board.” U.C.A. § 19-2-103(12). Executive Director Sprott has appointed Cheryl Heying as the new Director and Executive Secretary for the Division of Air Quality. Accordingly, the Executive Director hereby proposes that at the next regularly-scheduled meeting (currently July 11, 2007), the Air Quality Board vote to approve his appointment of Ms. Heying as Executive Secretary according to 19-2-103(12).